From: rdm12@optonline.net on 04/05/2004 10:40:30 PM
Subject: Regulation BB - Community Reinvestment Act

Please see attached comments, which are also pasted below.

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Docket No. 04-06

Communications Division

Public Information Room, Mailstop 1-5

Office of the Comptroller of the Currency

250 E. St. SW

Washington, DC 20219

Docket No. R-1181

Jennifer J. Johnson

Secretary

Board of Governors of the Federal Reserve System

20th Street and Constitution Ave., NW

Washington, DC 20551

Robert E. Feldman

Executive Secretary

Attention: Comments

Federal Deposit Insurance Corporation

550 17th St., NW

Washington, DC 20249

Regulation Comments, Attention: No. 2004-04

Chief Counsel's Office

Office of Thrift Supervision

1700 G Street NW

Washington, DC 20552

Dear Federal Bank and Thrift Regulatory Agencies:

I am a professor of law at New York Law School where I am the director of the Economic Justice Project. I am also a member of the National Community Reinvestment Coalition (NCRC). I submit these comments about the agencies' proposed amendments to the Community Reinvestment Act (CRA) regulations. I strongly oppose the agencies' proposal to increase the asset threshold for the streamlined CRA examination from $250 million to $500 million. This proposal would deprive significant portions of the nation of needed community development loans and investments and retail banking services without providing a significant benefit to the public. In addition, while it is appropriate for the agencies to regulate predatory lending through the CRA, the proposal does not go far enough. Finally, I support the agencies' proposal to disclose a bank's small business loans by census tract.

The agencies' proposal to increase the asset threshold for the streamlined CRA examination from $250 million to $500 million would excuse approximately 1,100 banks nationwide from scrutiny of their community development investments and their retail banking services. The agencies' national perspective on the impact of their proposal--that it reduces only slightly the total value of banking assets under the large bank CRA exam--ignores the fact that the proposal will exempt from the investment and service test a higher percentage of assets in many states, and in rural areas in particular. According to data submitted to the agencies by NCRC, banks that would be exempt from investment and service tests control 4.32% of banking assets nationwide. However, such banks control more than this percentage of bank assets in 37 states. Such banks control more than 10% of banking assets in 20 states, and control more than 20% of assets in 5 states: Arkansas (20.61%); Colorado (20.78%); Mar yland (21.43%); Vermont (24.00%); and Idaho (55.46%). In rural areas, banks with $250 million to $500 million in assets control 18.80% of assets nationally. This means that 18.08% of banking assets in rural areas would not be subject to the investment and service tests. Additionally, banks in rural areas that would be exempt from the investment and service tests control more than 18.80% of assets in 20 states, including more than 50% of assets in Idaho (50.05%); Utah (51.08%); and Vermont (53.99%).

The agencies' proposed standard for considering predatory lending is woefully inadequate on several levels. First, it does not cover many predatory practices, including packing fees into mortgage loans, high prepayment penalties, loan flipping, and mandatory arbitration clauses. Second, it only covers real estate-related loans made by the bank in its assessment area. This gives banks a free pass to make predatory loans outside of their assessment areas, through affiliates, and to other types of borrowers. Third, it does not include secondary market activities of banks. Finally, it does not affect abusive subprime lending activities by banks, including targeting low-income and predominantly minority communities for subprime loans.

Finally, the agencies' proposal to report the specific census tracts that received a small business loans will improve the quality of data available. Improvement in the quality of publicly available lending data have traditionally resulted in lending increases to the relevant group. The agencies should make sure to make use of this expanded data in their CRA performance evaluations.

Thank you for this opportunity to submit comments.

Yours truly,

Richard Marsico